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MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1925 Century Park East, 17th Floor
Los Angeles, California 90067

Telephone
(310) 286-9800

Facsimile
(310) 286-2795

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TO:

Name: Examiner D. DeMille/Art Unit 3764
Mail Stop: APPEAL BRIEF - Patents

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 08/354,450
Gary Karlin Michelson
Filed: December 12, 1994

DEVICE FOR ARTHROSCOPIC MENISCAL
REPAIR

Attorney Docket No. 101.0023-04000

Customer No. 22882

Confirmation No.: 3041

FROM:

Name: Amedeo F. Ferraro

Phone No.: 310-286-9800

No. of Pages (including this): 5

Date: August 4, 2006

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Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate) and Second Supplemental Reply Brief are being facsimile transmitted to the U.S. Patent and Trademark Office on August 4, 2006.

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PATENT
Attorney Docket No. 101.0023-04000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Gary K. Michelson
Serial No: 08/354,450
Filed: December 12, 1994
For: DEVICE FOR ARTHROSCOPIC
MENISCAL REPAIR

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Confirmation No.: 3041
Art Unit: 3764
Examiner: D. DeMille
AUG 04 2006

Mail Stop: Appeal Brief—Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Second Supplemental Reply Brief in response to the Supplemental Examiner's Answer dated June 21, 2006 in the above-identified application.

- Applicant claims small entity status under 37 C.F.R. §§ 1.9 and 1.27.
- No additional fee is required.
- Applicant hereby requests a ***-month extension of time to respond to the above action.
- The total amount of \$*** to cover the above fees is to be charged to Deposit Account No. 50-1066.
- The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
 - Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
 - Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: August 4, 2006

By: 
Amedeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

PATENT
Attorney Docket No 101.0023-04000
Customer No. 22882

APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)
Gary Karlin Michelson, M.D.)
Serial No.: 08/354,450)
Filed: December 12, 1994)
For: DEVICE FOR ARTHROSCOPIC)
MENISCAL REPAIR)

Group Art Unit: 3764
Examiner: D. DeMille

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SECOND SUPPLEMENTAL REPLY BRIEF

Appellant submits the following reply to the Supplemental Examiner's Answer dated June 21, 2006 (the "June 2006 Supplemental Examiner's Answer"). The following remarks are submitted for consideration by the Board of Patent Appeals and Interferences.

I. Order from the Board dated May 22, 2006.

On May 22, 2006, the Board issued an Order that the application be returned to the Examiner for:

1. the petitions noted above to be properly decided and made of record to the application,
2. a copy of the decisions on the petitions to be sent to appellant,
3. a copy of the decisions on the petitions to be scanned into the electronic file,
4. the Examiner to resubmit the Supplemental Examiner's Answer with proper authorization if the examiner wishes to have it considered by the BPAI in its disposition of the appealed claims, and
5. for such further action as may be appropriate.

(Order, paragraph bridging pages 2 and 3). As of the date of submission of the present Supplemental Reply Brief, items 1-3 of the Order have not been completed. One of the Petitions, submitted by Appellant on September 1, 2005 (the "September 2005

Second Supplemental Reply Brief 8-4-06

Petition"), requests the mailing of a Corrected Examiner's Answer designating several rejections as new grounds of rejection. Until at least the September 2005 Petition has been decided, Appellant respectfully submits that the June 2006 Supplemental Examiner's Answer is premature. Appellant respectfully requests the Board to order the withdrawal of the June 2006 Supplemental Examiner's Answer until items 1-3 of the Order have been complied with.

II. Remarks in response to the June 2006 Supplemental Examiner's Answer.

Appellant notes that the remarks of the June 2006 Supplemental Examiner's Answer and the remarks of the Supplemental Examiner's Answer mailed on December 1, 2005 are identical. Accordingly, Appellant incorporates herein the remarks from Appellant's Supplemental Reply Brief dated February 1, 2006 in their entirety as a complete response to the Examiner's remarks contained in the June 2006 Supplemental Examiner's Answer.

If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: August 4, 2006

By:


Amadeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030